

§ 96-14.14. Extended benefits.

(a) [General Provisions. –] Extended benefits payable under sub-subdivision (b)(5)a. of this section shall be paid as required under the Federal-State Extended Unemployment Compensation Act of 1970. Extended benefits payable under sub-subdivision (b)(5)a. of this section are not required under federal law and may be paid only if the federal government funds one hundred percent (100%) of the costs of providing them. Extended benefits are payable in the manner prescribed by this section.

(b) Definitions. – As used in this section, unless the context clearly requires otherwise:

- (1) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.
- (2) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:
 - a. Has received, prior to such week, all of the regular benefits that were available to him under this Chapter or any other State law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85) in his current benefit year that includes such week;
Provided, that, for the purposes of this subdivision, an individual shall be deemed to have received all of the regular benefits that were available to him although (i) as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits, or (ii) he may be entitled to regular benefits with respect to future weeks of unemployment, but such benefits are not payable with respect to such week of unemployment by reason of the provisions in G.S. 96-16; or
 - b. His benefit year having expired prior to such week, has no, or insufficient, wages on the basis of which he could establish a new benefit year that would include such week; and
 - c.1. Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and
 2. Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law, he is considered an exhaustee.
- (3) "Extended benefit period" means a period which:
 - a. Begins the third week after a week for which there is an "on" indicator; and
 - b. Ends with either of the following weeks, whichever occurs later:
 1. The third week after the first week for which there is an "off" indicator; or
 2. The 13th consecutive week of such period.

Provided, that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period which was in effect with respect to this State.

- (4) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his eligibility period.
- (5) There is an "on indicator" for this State for a week if the Division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediate preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this Chapter:
 - a. Equalled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, and equalled or exceeded five percent (5%), or
 - b. Equalled or exceeded six percent (6%), or
 - c. With respect to benefits for weeks of unemployment in North Carolina beginning after May 1, 2002:
 - 1. The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds a six and one-half percent (6.5%), and
 - 2. The average rate of total unemployment in the State (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in [sub-]sub-subdivision c.1. of this subdivision, equals or exceeds one hundred ten percent (110%) of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.
 - 3. Expired effective January 1, 2013, pursuant to Session Laws 2011-145, s. 6.16(d), as amended by Session Laws 2012-134, s. 1(c).
 - d. There is a State "off indicator" for a week with respect to sub-subdivision c. of this subdivision, only if, for the period consisting of such week and the immediately preceding 12 weeks, the option specified in sub-subdivision c. does not result in an "on indicator".
 - e. Total extended benefit amount –
 - 1. The total extended benefit amount payment to any eligible individual with respect to the applicable benefit year shall be the least of the following amounts:
 - I. Fifty percent (50%) of the total amount of regular benefits which were payable to the individual under this Chapter in the individual's applicable benefit year;
 - or

- II. Thirteen times the individual's weekly benefit amount that was payable to the individual under this Chapter for a week of total unemployment in the applicable benefit year.
 - 2. I. Effective with respect to weeks beginning in a high unemployment period, [sub-]sub-subdivision e.1. of this subdivision shall be applied by substituting:
 - A. "Eighty percent (80%)" for "fifty percent (50%)" in [sub-sub-]sub-subdivision e.1.I., and
 - B. "Twenty" for "thirteen" in [sub-sub-]sub-subdivision e.1.II.
 - II. For purposes of [sub-sub-]sub-subdivision 2.I., the term "high unemployment period" means any period during which an extended benefit period would be in effect if sub-subdivision c. of this subdivision were applied by substituting "eight percent (8%)" for "six and one-half percent (6.5%)".
- 3. Expired effective January 1, 2013, pursuant to Session Laws 2011-145, s. 6.16(d), as amended by Session Laws 2012-134, s. 1(c).
- (6) There is an "off indicator" for this State for a week if the Division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this Chapter:
 - a. Was less than one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, and was less than six percent (6%), or
 - b. Was less than five percent (5%).
- (7) "Rate of insured unemployment," for the purposes of subparagraphs [subdivisions] (5) and (6) of this subsection, means the percentage derived by dividing:
 - a. The average weekly number of individuals filing claims for regular compensation in this State for weeks of unemployment with respect to the most recent 13 consecutive-week period, as determined by the Division, on the basis of its reports to the United States Secretary of Labor, by
 - b. The average monthly employment covered under this Chapter for the first four of the most recent six completed calendar quarters ending before the end of such 13-week period.
- (8) "Regular benefits" means benefits payable to an individual under this Chapter or any other State law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85) other than extended benefits.
- (9) "State law" means the unemployment insurance law of any state approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code.

(c) Effect of State Law Provisions Relating to Regular Benefits on Claims for, and for Payment of, Extended Benefits. – Except when the result would be inconsistent with the other provisions of this section and in matters of eligibility determination, as provided by rules adopted by the Division, the provisions of this Chapter which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

(d) Eligibility Requirements for Extended Benefits. – An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the Division finds that with respect to such week:

- (1) The individual is an "exhaustee" as defined in subsection [subdivision] (b)(2).
- (2) The individual has satisfied the requirements of this Chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits. Provided, however, that for purposes of disqualification for extended benefits for weeks of unemployment beginning after March 31, 1981, the term "suitable work" means any work which is within the individual's capabilities to perform if: (i) the gross average weekly remuneration payable for the work exceeds the sum of the individual's weekly extended benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in section 501(C)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week; and (ii) the gross wages payable for the work equal the higher of the minimum wages provided by section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended (without regard to any exemption), or the State minimum wage; and (iii) the work is offered to the individual in writing and is listed with the State employment service; and (iv) the considerations contained in G.S. 96-14.9(f) for determining whether or not work is suitable are applied to the extent that they are not inconsistent with the specific requirements of this subdivision; and (v) the individual cannot furnish evidence satisfactory to the Division that his prospects for obtaining work in his customary occupation within a reasonably short period of time are good, but if the individual submits evidence which the Division deems satisfactory for this purpose, the determination of whether or not work is suitable with respect to such individual shall be made in accordance with G.S. 96-14.9(f) without regard to the definition contained in this subdivision. Provided, further, that no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions set forth in this subdivision, but the employment service shall refer any individual claiming extended benefits to any work which is deemed suitable hereunder. Provided, further, that any individual who has been disqualified for voluntarily leaving employment, being discharged for misconduct or substantial fault, or refusing suitable work under G.S. 96-14.11 and who has had the disqualification terminated, shall have such disqualification reinstated when claiming extended benefits unless the termination of the disqualification was based upon employment subsequent to the date of the disqualification.
- (3) After March 31, 1981, he has not failed either to apply for or to accept an offer of suitable work, as defined in G.S. 96-14.14(d)(2), to which he was referred by an employment office of the Division, and he has furnished the Division with tangible evidence that he has actively engaged in a systematic

and sustained effort to find work. If an individual is found to be ineligible hereunder, he shall be ineligible beginning with the week in which he either failed to apply for or to accept the offer of suitable work or failed to furnish the Division with tangible evidence that he has actively engaged in a systematic and sustained effort to find work and such individual shall continue to be ineligible for extended benefits until he has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times his weekly benefit amount.

- (4) Pursuant to section 202(a)(7) of the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91-373), as amended by section 202(b)(1) of the Unemployment Compensation Amendments of 1992 (Public Law 102-318), for any week of unemployment beginning after March 6, 1993, and before January 1, 1995, the individual is an exhaustee as defined by federal law and has satisfied the requirements of this Chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits. Provided, the terms and conditions of State law that apply to claims for regular compensation and to the payment thereof shall apply to claims for extended benefits and to the payment thereof.
- (5) An individual shall not be eligible for extended compensation unless the individual had 20 weeks of full-time insured employment, or the equivalent in insured wages, as determined by a calculation of base period wages based upon total hours worked during each quarter of the base period and the hourly wage rate for each quarter of the base period. For the purposes of this paragraph, the equivalent in insured wages shall be earnings covered by the State law for compensation purposes which exceed 40 times the individual's most recent weekly benefit amount or one and one-half times the individual's insured wages in that calendar quarter of the base period in which the individual's insured wages were the highest.

(e) **Weekly Extended Benefit Amount.** – The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the weekly benefit amount payable to him during his applicable benefit year. For any individual who was paid benefits during the applicable benefit year in accordance with more than one weekly benefit amount, the weekly extended benefit amount shall be the average of such weekly benefit amounts rounded to the nearest lower full dollar amount (if not a full dollar amount). Provided, that for any week during a period in which federal payments to states under Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970, P.L. 91-373, are reduced under an order issued under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177, the weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be reduced by a percentage equivalent to the percentage of the reduction in the federal payment. The reduced weekly extended benefit amount, if not a full dollar amount, shall be rounded to the nearest lower full dollar amount.

- (f) (1) **Total Extended Benefit Amount.** – Except as provided in subdivision (2) hereof, the total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the following amounts:

- a. Fifty percent (50%) of the total amount of regular benefits which were payable to him under this Chapter in his applicable benefit year; or
- b. Thirteen times his weekly benefit amount which was payable to him under this Chapter for a week of total unemployment in the applicable benefit year.

Provided, that during any fiscal year in which federal payments to states under Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970, P.L. 91-373, are reduced under an order issued under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177, the total extended benefit amount payable to an individual with respect to his applicable benefit year shall be reduced by an amount equal to the aggregate of the reductions under G.S. 96-14.14(e) and the weekly amounts paid to the individual.

- (2) Notwithstanding any other provisions of this Chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this subdivision, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(g) Beginning and Termination of Extended Benefit Period. –

- (1) Whenever an extended benefit period is to become effective in this State as a result of an "on" indicator, or an extended benefit period is to be terminated in this State as a result of an "off" indicator, the Division shall make an appropriate public announcement; and
- (2) Computations required by the provisions of subsection (a)(6) [subdivision (b)(7)] shall be made by the Division, in accordance with regulations prescribed by the United States Secretary of Labor.

(h) Prior to January 1, 1978, any extended benefits paid to any claimant under G.S. 96-14.14 shall not be charged to the account of the base period employer(s) who pay taxes as required by this Chapter. However, fifty percent (50%) of any such benefits paid shall be allocated as provided in G.S. 96-11.2 (except that G.S. 96-11.3 shall not apply), and the applicable amount shall be charged to the account of the appropriate employer paying on a reimbursement basis in lieu of taxes.

On and after January 1, 1978, the federal portion of any extended benefits shall not be charged to the account of any employer who pays taxes as required by this Chapter but the State portion of such extended benefits shall be:

- (1) Charged to the account of such employer; or
- (2) Not charged to the account of the employer under the provisions of G.S. 96-11.3.

All state portions of the extended benefits paid shall be charged to the account of governmental entities or other employers not liable for FUTA taxes who are the base period employers.

(i) Notwithstanding the provisions of G.S. 96-9.6, G.S. 96-14.14(h), or any other provision of this Chapter, any extended benefits paid which are one hundred percent (100%) federally financed shall not be charged in any percentage to any employer's account.

(j) For weeks of unemployment beginning on or after June 1, 1981, a claimant who is filing an interstate claim under the interstate benefit payment plan shall be eligible for extended benefits for no more than two weeks when there is an "off indicator" in the state where the claimant files. (Ex. Sess. 1936, c. 1, s. 3; 1937, c. 448, s. 1; 1939, c. 27, ss. 1-3, 14; c. 141; 1941, c. 108, s. 1; c. 276; 1943, c. 377, ss. 1-4; 1945, c. 522, ss. 24-26; 1947, c. 326, s. 21; 1949, c. 424, ss. 19-21; 1951, c. 332, ss. 10-12; 1953, c. 401, ss. 17, 18; 1957, c. 1059, ss. 12, 13; c. 1339; 1959, c. 362, ss. 12-15; 1961, c. 454, ss. 17, 18; 1965, c. 795, ss. 15, 16; 1969, c. 575, s. 9; 1971, c. 673, ss. 25, 26; 1973, c. 1138, ss. 3-7; 1975, c. 2, ss. 1-5; 1977, c. 727, s. 52; 1979, c. 660, ss. 18, 19; 1981, c. 160, ss. 17-23; 1981 (Reg. Sess., 1982), c. 1178, ss. 3-14; 1983, c. 585, ss. 12-16; c. 625, ss. 1, 7; 1985, c. 552, s. 9; 1985 (Reg. Sess., 1986), c. 918; 1987, c. 17, s. 8; 1993, c. 122, s. 2; 1993 (Reg. Sess., 1994), c. 680, ss. 1-3; 1995 (Reg. Sess., 1996), c. 646, s. 25(a); 1997-456, s. 27; 1999-340, ss. 4, 5; 2001-414, ss. 42, 43, 44; 2002-143, ss. 1, 1.1; 2011-145, s. 6.16(a), (b); 2011-401, s. 2.12; 2012-134, s. 1(c)-(e); 2013-2, s. 6; 2013-224, ss. 19, 20(f)-(j).)